

BILL C. ROSS

IBLA 81-33

Decided April 16, 1981

Appeal from decision of the New Mexico State Office, Bureau of Land Management, returning the notices of location for various mining claims and declaring the claims abandoned.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Zenon F. Myszkowski, Esq., Albuquerque, New Mexico, for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Bill C. Ross has appealed the decision of the New Mexico State Office, Bureau of Land Management (BLM), dated September 9, 1980,

rejecting notices of location for the Ground Hog, Last Chance, Annex, Virgilina, Apache Chief, and McKinney ^{1/} mining claims filed on August 25, 1980, and declaring those claims abandoned and void. By letter also dated September 9, 1980, BLM returned appellant's 1979 proof of labor filing and fee for the claims which BLM had received separately on August 8, 1980. Both the decision and the letter indicated that appellant had failed to comply with the recordation requirements of section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and Departmental regulations 43 CFR 3833.

Appellant's claims were located on February 1, 1927. In his statement of reasons appellant explains that these claims have been worked by his family for many years. He claims that he was not adequately informed of the filing requirements by a mining engineer or the State of New Mexico. He points out that he filed the appropriate proofs of labor in September 1979, but given the time that it takes the county to return filings he could not have made the October 22, 1979, deadline even if he had been aware of it. He urges that he had no intention of abandoning the claims.

[1, 2] Section 314 of FLPMA requires the owner of an unpatented lode or placer mining claim located prior to October 21, 1976, to file a copy of the official record of the notice of location and related documents for the claim in the BLM office designated by the Secretary of the Interior within the 3-year period following October 21, 1976. Section 314 also provides that failure to timely file such records shall be deemed conclusively to constitute an abandonment of the mining claim by the owner. The pertinent regulations, 43 CFR 3833.1-2(a) and 3833.2-1(a), merely replicate the statutory requirements.

The fact that appellant may have been unaware of the recordation requirements, while unfortunate, does not excuse him from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance. A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

^{1/} The BLM decision and letter both refer to the Victoria claim rather than the McKinney claim. However the sixth notice of location submitted is that of the McKinney claim. Correspondence in the file indicates that appellant would be submitting documents on the Victoria claim at a later time. They are not in the case file reviewed herein.

We note in addition that regulation 43 CFR 3833.2-2 provides that evidence of assessment work need only be a copy of the document which "was or will be filed for record" in the county and, therefore, any delay arising from local records processing should have no impact on the requirement to file with BLM.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Bruce R. Harris
Administrative Judge

